

(2) The income and resource methodologies that an agency elects to apply to groups of individuals under paragraph (c)(1) of this section may be less restrictive, but no more restrictive, than:

(i) For groups of aged, blind, and disabled individuals, the SSI methodologies; or

(ii) For all other groups, the methodologies under the State plan most closely categorically related to the individual's status.

(3) A financial methodology is considered to be no more restrictive if, by using the methodology, additional individuals may be eligible for Medicaid and no individuals who are otherwise eligible are by use of that methodology made ineligible for Medicaid.

(4) The less restrictive methodology applied under this section must be comparable for all persons within each category of assistance (aged, or blind, or disabled, or AFDC-related) within each eligibility group. For example, if the agency chooses to apply a less restrictive income or resource methodology to aged individuals, it must apply that methodology to an eligibility group of all aged individuals within the selected group.

(5) The application of the less restrictive income and resource methodologies permitted under this section must be consistent with the limitations and conditions on FFP specified in subpart K of this part.

(e) [Reserved]

(f) *State plan requirements.* (1) The State plan must specify that, except to the extent precluded by § 436.602 in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses to apply less restrictive income and resource methodologies, in accordance with paragraph (d) of this section.

(2) If the agency chooses to apply less restrictive income and resource methodologies, the State plan must specify:

(i) The less restrictive methodologies that will used; and

(ii) The eligibility groups or groups to which the less restrictive methodologies will be applied.

[58 FR 4936, Jan. 19, 1993, as amended at 59 FR 43053, Aug. 22, 1994]

#### **§ 436.602 Financial responsibility of relatives and other individuals.**

(a) Subject to the provisions of paragraphs (b) and (c) of this section, in determining financial responsibility of relatives and other persons for individuals under Medicaid, the agency must use the following financial eligibility requirements and methodologies.

(1) Except for a spouse of an individual or a parent for a child who is under age 21 or blind or disabled, the agency must not consider income and resources of any relative as available to an individual.

(2) In relation to individuals under 21 (as described in section 1905(a)(i) of the Act), the financial responsibility requirements and methodologies include considering the income and resources of parents or spouses whose income and resources would be considered if the individual under age 21 were dependent under the State's approved AFDC plan, whether or not they are actually contributed. These requirements and methodologies must be applied in accordance with provisions of the State's approved AFDC plan.

(3) When a couple ceases to live together, the agency must count only the income and resources of the individual in determining his or her eligibility, beginning the first month following the month the couple ceases to live together.

(b) The agency may apply income and resource methodologies that are less restrictive than the cash assistance methodologies as specified in the State plan in accordance with § 436.601(d).

(c) [Reserved]

[58 FR 4936, Jan. 19, 1993, as amended at 59 FR 43053, Aug. 22, 1994]

#### **§ 436.604 [Reserved]**

#### **§ 436.606 [Reserved]**

#### **§ 436.608 Applications for other benefits.**

(a) As a condition of eligibility, the agency must require applicants and recipients to take all necessary steps to obtain any annuities, pensions, and retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so.

## § 436.610

(b) Annuities, pensions, and retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

[43 FR 45218, Sept. 29, 1978. Redesignated at 58 FR 4937, Jan. 19, 1993]

## § 436.610 Assignment of rights to benefits.

(a) As a condition of eligibility, the agency must require legally able applicants and recipients to:

(1) Assign rights to the Medicaid agency to medical support and to payment for medical care from any third party;

(2) Cooperate with the agency in establishing paternity and in obtaining medical support and payments, unless the individual establishes good cause for not cooperating, and except for individuals described in section 1902(l)(1)(A) of the Act (poverty level pregnant women), who are exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of the child born out of wedlock; and

(3) Cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating.

(b) The requirements for assignment of rights must be applied uniformly for all groups covered under the plan.

(c) The requirements of paragraph (a) of this section for assignment of rights to medical support and other payments and cooperation in obtaining medical support and payments are effective for medical assistance furnished on or after October 1, 1984. The requirement for cooperation in identifying and providing information for pursuing liable third parties is effective for medical assistance furnished on or after July 1, 1986.

[55 FR 48610, Nov. 21, 1990; 55 FR 52130, Dec. 19, 1990, as amended at 58 FR 4908, Jan. 19, 1993. Redesignated at 58 FR 4937, Jan. 19, 1993]

## Subpart H [Reserved]

## 42 CFR Ch. IV (10–1–00 Edition)

## Subpart I—Financial Requirements for the Medically Needy

### § 436.800 Scope.

This subpart prescribes financial requirements for determining the eligibility of medically needy individuals under subpart D of this part.

### MEDICALLY NEEDED INCOME STANDARD

### § 436.811 Medically needy income standard: General requirements.

(a) To determine eligibility of medically needy individuals, the agency must use a single income standard for all covered medically needy groups that meets the requirements of this section.

(b) The income standard must take into account the number of persons in the assistance unit. The standard may not diminish by the number of persons in the unit (for example, if the income level in the standard for an assistance unit of two is set at \$400, the income level in the standard for an assistance unit of three may not be less than \$400).

(c) The income standard must be set at an amount that is no lower than the lowest income standard used on or after January 1, 1966, to determine eligibility under the cash assistance programs that are related to the State's covered medically needy group or groups of individuals under § 436.301.

(d) The income standard may vary based on the variations between shelter costs in urban areas and rural areas.

[58 FR 4938, Jan. 19, 1993]

### § 436.814 Medically needy income standard: State plan requirements.

The State plan must specify the income standard for the covered medically needy groups.

[58 FR 4938, Jan. 19, 1993]

### MEDICALLY NEEDED INCOME ELIGIBILITY AND LIABILITY FOR PAYMENT OF MEDICAL EXPENSES

### § 436.831 Income eligibility.

The agency must determine income eligibility of medically needy individuals in accordance with this section.